

REMARKS

The Applicant respectfully traverses the rejections of claims 1-11 and 21-26 under 35 U.S.C. 112, first paragraph. The Office Action dated August 28, 2006 has simply made reference to earlier Office Actions in which this rejection was set forth. Applicant has attempted to address the issues set forth therein.

The Office Action notes the reference to use of an "arc lamp" at page 8, lines 23-24 and at page 10, lines 16-18, and then conclude that the invention is described as "requiring an arc lamp." This selectively relies upon the certain portions of the specification and ignores others. Applicant describes several embodiments in the specification in which different sources of light can be used to induce tissue autofluorescence. The first embodiment is described in the summary of the invention in connection with Wang Application (60/072,455) at page 5, lines 4-9, again at page 8, lines 2-5, and again at page 10, lines 13-14. Wang et al used an argon-ion laser at 365 nm, a ND:Yag laser at 355 nm, a krypton ion laser at 407 nm and 413 nm, as well as a mercury arc lamp for UV excitation. The Applicant notes that Wang described the use of an ultraviolet source to induce fluorescence for diagnostic purposes. The Applicant also notes that the parent application of the present application issued as U.S. Patent No. 6,364,829 with claims directed to the ultraviolet light source

shown in Fig. 10A, for example. However, the present application involves claims directed to a third embodiment described at page 10, lines 15-16 after the reference to the use of the Wang et al light source. Applicant has made no admission that a diode laser light source was known in the art as an ultraviolet light source for inducing tissue autofluorescence. Wang et al does not describe the use of a diode laser for UV excitation. To conclude, as set forth in the Office Action dated November 22, 2004, that the reference to a diode laser at page 10, lines 13-16, that this is "mentioned as one of two other light sources that have previously been used" is simply erroneous. There is no basis for concluding this - rather this section makes reference to the system described in Wang (i.e. the argon ion laser) as one source, and to another new system, that using the diode laser as a source.

With respect to claim 7, the application is clear (at page 79, lines 12-13 and lines 29, for example) that the term "reference light" is used generically to refer to several different embodiments. One involves obtaining a full color reference image and the other, using the red channel in a color detector to use as a red reference image. It is possible, using a filter as described in the application, to selectively illuminate in the red portion of the spectrum.

Claims 1-6, 8-11, 21, 23 and 24 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Kaneko in view of Poindexter.

Poindexter ('423) is relied upon to show the use of diode laser. However the '423 patent relates to a sensor for measuring oxygen content levels in the exhaust gases of internal combustion engines. There is no teaching or suggestion in this reference that such a source could be used to induce tissue autofluorescence in the claimed range suitable for diagnostic purposes. The systems and methods employed by Poindexter do not indicate that such a source would be capable of providing illuminations for fluorescence imaging as set forth in the present claims. One skilled in the art would not look to the '423 patent for such teaching.

Claim 22 has been rejected under 35 U.S.C. 103(a) as being unpatentable over the above combination and further in view of Perelman. Claim 25 and 26 have been rejected under 35 U.S.C. 103(a) based upon the above combination and further in view of Groner. In view of the patentability of independent claim 1, the rejections of claims 22, 25 and 26 is believed to be obviated.

Application No. 10/092,033  
Filed: March 5, 2002  
TC Art Unit: 3739  
Confirmation No.: 7761

New claim 36 has been added for consideration.

Applicant respectfully requests reconsideration hereof. The Examiner is encouraged to telephone the undersigned attorney to discuss any matter that would expedite allowance of the present application.

Respectfully submitted,

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Date: 20 November 2009

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